IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO : 15729 of 2005

Between:

1. P.Rajasekhar s/o P.Dharmarao aged about 49 years,

r/o 3/764, Jettipalem, Srikalahasthi, Chittoor District.

2. Y.V.Ramanaiah Naidu s/o Venkatasubbanaidu,

aged about 52 years,r/o 2/62, Big Mosque Street,

Srikalahasthi, Chittoor District

3. S.Nazeer Basha s/o S.Nannesaheb, aged about 48 years,

r/o 7/558, Janullah Street, Srikalahasthi, Chittoor district.

4. S.Rafi, s/o S.Basha, aged about 30 years,

r/o 7/670A, Big Mosque Street,

Srikalahasthi, Chittoor District

5. S.Anwar Basha s/o S.Ibrahim, aged about 43 years,

r/o 12/225A, Kummari street Bahadurpet Srikalahasthi Town,

Chittoor District.

6. K.V.Rajareddy s/o K.Venkatareddy aged about 54 years,

r/o 5/323, M.G.Street Srikalahasthi, Chittoor District.

7. K.V.Subbareddy s/o Balireddy aged about 35 years,

r/o 5/239A, M.G.Street, Srikalahasthi, Chittoor District.

8. C.Jayagopal S/o Balireddy aged about 35 years,

r/o 2/488,Kondamitta Street, Srikalahasthi, Chittoor District.

9. C.Chenchuramaiah s/o Venkatareddy aged about 54 years,

r/o 2/488 Kondamitta Street, Srikalahasthi, Chittoor District.

10. P.Narendramunikumar s/o P.Nadamuni, aged 35 years,

r/o 1/991, Kondamitta Street,Srikalahasthi, Chittoor district.

11. P.Sivakumar s/o Nadamuni, aged about 25 years,

r/o 1/991, Kondamitta Street Srikalahasthi, Chittoor district.

12. S.Jeelani Basha s/o Sultan saheb aged about 45 years,

r/o 7/607, K.s.Tippa,Srikalahasthi, Chittoor District.

13. N.Balasubbaiah s/o N.Subbaiah, aged about 40 years,

r/o 12/402, Bhaskarpet, Srikalahasthi, Chittoor District.

14. G.chowdaiah s/o G.Subbaiah, aged about 48 years,

r/o 12/392(1), Baskarpet,Srikalahasthi, Chittoor district.

15. K.Venkatarathnam s/o K.Ayyanna, aged 38 years

r/o 8/288, Kaikala Street, Srikalahasthi, Chittoor district.

16. S.Nazeer s/o Meerjan saheb, aged about 48 years,

r/o 7/550, Janullah Street, Srikalahasthi, Chittoor district

17. S.Zakria s/o Meerjan Saheb aged about 45 years.

R/o 7/547, Janullah street, Srikalahasthi, chittoor District.

18. S.Usman s/o Meerjan Saheb, aged about 40 years,

r/o 7/550, Janullah street, Srikalahasthi, Chittoor District

19. K.Balamunindra Nath s/o K.M.V.Gopal Rao,

aged about 50 years, r/o 3/764, Jettipalem,

Srikalahasthi, Chittoor District.

20. C.Munaiah Naidu s/o G.Ramanaidu, aged 48 years,

r/o Karakallu village, Thottambedu Mandal, Chittoor District

21. K.Babu s/o K.Chengalraya chetty, aged 35 years,

r/o 5/66, M.G.Street, Srikalahasthi, chittoor District.

22. M.Subrahmanyam s/o M.Yanadaiah, aged about 38 years,

r/o 7/569, Big Mosque Street, Srikalahasthi, Chittoor District

23. T.Krishna s/o T.Deenadayal, aged about 45 years,

r/o 1/1036A, Kailasagiri colony, Srikalahasthi, Chittoor dist.

24. D.Veerabadraiah s/o D.Veeramnaidu, aged 60 years,

r/o Opp. Arts college, Pitchaturu road, Srikalahasthi,

Chittoor District.

25. L.Venkatesh s/o Govndaiah, aged about35 years,

r/o 1/1038, Kailasagiri colony Srikalahasthi, Chittoor District

26. K.Venkateswarlu s/o K. Mangaiah, aged about 45 years,

r/o 14/43A,V.M.Palli, Baskarpet, Srikalahasthi, chittoor dist.

27. D.Muniraja s/o D.Munikrishnaiah, aged about 35 years,

r/o 4/40A, K.M.Palli, Bhaskarpet,Srikalahasthi, Chittoor

District

28. P.Gangadharam s/o P.Gangaiah, aged about 32 years,

r/o 14/154, V.M.Palli, Bhaskarpet, Srikalahasthi, Chittoor

District

29. N.Dhananjayulu s/o N. Subrahmanyam Chety, aged about 40

years, r/o 15/546, B.P.Agraharam, Srikalahasthi, Chittoor

District

30. K.Parthasarathy s/o K.Babu aged about 23 years,

r/o 5/66, M.G.street, Srikalahasthi, chittoor District.

31. M.Manohar s/o Krishnaiah, aged about 36 years,

r/o 11/243, Srikalahasthi, chittoor District.

32. K.Krishnaiah s/o veerabadraiah, aged about 32 years,

r/o 12/229, Kummaristreet, Srikalahasthi, chittoor District

33. Y.Ramamohan rao s/o Krishnamnaidu,

34. V.Venkateswara rao s/o Venkatramanaidu, aged about 35

years, r/o Mannavaram village, Srikalahasthi Mandal, Chittoor

District

35. P.Mangareddy s/o P.Ramireddy aged about 36 years

r/o Kothakandriga village, Thottambedu Mandal, Chittoor

district

36. M.Munikrishna reddy s/o Munireddy, aged about 36 years

r/o Kothaikandriga village, Thottambedu(M), Chittoor Dist.

37. S.Lakshmipathi s/o Laxmaiah aged about 32 years,

r/o 15/455A, B.P.Agraharam, Srikalahasthi, Chittoor Dist.

38. P.Venkatramana reddy s/o Rangareddy, aged about 40 years,

r/o Kothakandriga village, Thottambedu Mandal, Chittoor dist

39. T.eswara Reddy s/o T.Buddareddy aged about 29 years,

r/o Kollipudi village, Thottambedu Mandal, Chittoor Dist.

40. K.Srinivasulu redd s/o Kannappa reddy aged about 35 years,

r/o 3/403, Puramvari street, Srikalahasthi, chittoor district

41. N.Somasekhar reddy s/o N.Munikrishna reddy, aged about 30

years, r/o Kothuru village, Chiguruwada village, Tirupati rural

Mandal, Chittoor District.

42. P.Munikrishna reddy s/o Doraswamy reddy, aged about 60

years, r/oKothakandriga village, Thottambedu Mandal,

Chittoor District.

... PETITIONERS

AND

1. The Commissioner, Prohibition and Excise

Department,Hyderabad

2. The Superintendent, Prohibition and Excise Department

Chittoor District.

.....RESPONDENS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, in the nature of a writ of Mandamus or any other appropriate writ, direction, order or orders declaring the action of the respondent department in not refund the amount of Rs.5000/- each to the petitioners herein, which was already paid by the petitioners to the account of the respondents department by way of

challans in the respective sub-treasury Offices on 17.02.2005 as wholly arbitrary, illegal, without jurisdiction and void; and consequently, direct the respondent No.2 to refund the amount of Rs.5,000/- each to the petitioners, which was already paid by the petitioners to the account of the respondents department by way of challans in the respective sub treasury offices on 17.02.2005.

Counsel for the Petitioners: MR.ESWARAIAH VEERAPUNENI

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following:

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION NO : 15729 of 2005

ORDER:

This writ petition is filed seeking a direction to declare the action of the respondent department in not refunding the amount of Rs.5000/- each to the petitioners herein, which was already paid by the petitioners to the account of the respondents department by way of challans in the respective sub-treasury Offices on 17.02.2005 as wholly arbitrary, illegal, without jurisdiction and void; and consequently, to direct respondent No.2 to refund the amount of Rs.5,000/- each to the petitioners, which was already paid by the petitioners to the account of the respondents department by way of challans in the respective sub treasury offices on 17.02.2005.

Learned counsel for the petitioners refers to Clause 3 of the auction conditions, wherein the tenderer is required to submit challan for Rs.5000/- towards non-refundable participation fee. Learned counsel further submits that since the petitioners did not participate in the auction, the condition prescribed in the tender that the amount was non-refundable has no application and that they are entitled for refund of the said amount without going into the merits or demerits of the claim of the petitioners.

The relief sought for in the writ petition is for refund of money. These are all matters, which are not, normally, adjudicated in proceedings under Article 226 of the Constitution of India, and the remedy, if any, of the petitioners is by way of a civil suit before the Civil Court of competent jurisdiction.

The Writ Petition is accordingly dismissed. This order shall not, however, preclude the petitioners from availing such remedies as are available to them in law. No costs.

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20-07-2005

kvrm

To

1. The Commissioner, Prohibition and Excise

Department, Hyderabad

2. The Superintendent, Prohibition and Excise Department

Chittoor District.

3. 2 CCs to G.P for Prohibition and Excise, High Court Buildings,

Hyderabad (OUT)

4. 2 CD copies.